

AB:LZ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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21-513 M

UNITED STATES OF AMERICA

COMPLAINT

- against -

(18 U.S.C. § 545)

KEVIN ANDRE MCKENZIE,

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

Kathryn McCabe, being duly sworn, deposes and states that she is a Special Agent with the United States Fish and Wildlife Service, duly appointed according to law and acting as such.

On or about April 26, 2021, within the Eastern District of New York and elsewhere, the defendant KEVIN ANDRE MCKENZIE, together with others, did knowingly, intentionally and unlawfully import and bring into the United States merchandise contrary to law, to wit: approximately thirty-five (35) finches.

(Title 18, United States Code, Section 545)

The source of your deponent's information and the grounds for her belief are as follows:¹

1. I am a Special Agent with the United States Fish and Wildlife Service ("USFWS") and I have been involved in the investigation of numerous cases involving the

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

unlawful import and export of wildlife into and out of the United States. I am familiar with the facts and circumstances set forth below from my participation in the investigation.

BACKGROUND

2. In recent years, United States Customs and Border Protection (“CBP”) officers working at John F. Kennedy International Airport (“JFK”) have intercepted numerous individuals trying to bring finches, which are small seed-eating birds, into the United States from Guyana by concealing the birds in various manners without declaring the birds on the required importation forms. As set forth below, such conduct is in violation of the law. It also subverts requirements that birds from foreign countries be quarantined to prevent the possible spread of disease.

3. My investigation has revealed that individuals keep finches to enter them in singing contests in Brooklyn and Queens, New York. In such contests, often conducted in public areas like parks, two finches sing and a judge selects the bird determined to have the best voice. Many who attend the singing contests wager on the birds. A finch who wins these competitions becomes valuable and can sell for more than \$10,000. Although certain species of finch are available in the United States, species from Guyana are believed to sing better and are therefore more valuable. An individual willing to smuggle finches into the United States from Guyana can earn a large profit by selling these birds in the New York area.

RELEVANT REGULATIONS

4. Pursuant to Title 50, Code of Federal Regulations, Section 14.61, importers of wildlife are required to file a signed and completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) to declare the importation of any wildlife. In

addition, pursuant to Title 50, Code of Federal Regulations, Section 14.91, a permit is required from the USFWS to import any wildlife.

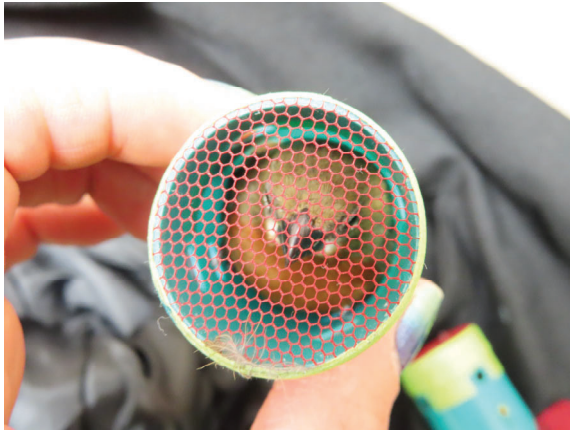
5. Pursuant to Title 9, Code of Federal Regulations, Section 93.106, imported commercial birds must be quarantined for 30 days. This requirement exists to prevent the spread of diseases carried by foreign birds, including Newcastle disease — a contagious avian virus that can infect humans and domestic poultry — and bird flu.

THE DEFENDANT'S CONDUCT

6. On or about April 26, 2021, the defendant KEVIN ANDRE MCKENZIE arrived at John F. Kennedy International Airport in Queens, New York, aboard JetBlue flight JB1966 originating in Georgetown, Guyana.

7. The defendant was selected for a Customs examination, which revealed that he possessed approximately thirty-five (35) live finches concealed in his suit jacket and beneath his pants legs, with each bird hidden inside a hair curler, as shown in the below photographs.





8. After being found with the finches, the defendant was advised of his Miranda rights, which he waived. The defendant told agents that he had been offered \$3,000 to smuggle the birds into the United States. He was paid \$500 before the flight, and he expected to receive the remaining \$2,500 when he exited Customs.

WHEREFORE, your deponent respectfully requests that the defendant KEVIN ANDRE MCKENZIE be dealt with according to law.

KATHRYN
MCCABE

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MCCABE
Date: 2021 04.26 21:55:08 -04'00'

Kathryn McCabe
Special Agent, United States Fish and Wildlife
Service

Sworn to before me this
27th day of April, 2021

James R. Cho
THE HONORABLE JAMES R. CHO
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK